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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058543
Party	Plaintiff Edge Games Inc
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Date	12/29/2015
Attachments	PetitionersOppositionToRegistrantsAmendedMotionForJudgment.pdf(4876741 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDGE GAMES, INC.	}	
(California Corporation)	}	
	}	
Petitioner	}	Cancellation No. 9205843
	}	
v.	}	Mark: EDGE
	}	
RAZER (ASIA-PACIFIC PTE LTD	}	Registration No. 4,394,393
(Singapore Corporation)	}	
	}	Registered: September 3, 2013
Registrant	}	
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PETITIONER EDGE GAMES, INC.'S OPPOSITION AND RESPONSE TO REGISTRANT RAZER (ASIA-PACIFIC) PTE LTD'S AMENDED MOTION FOR JUDGMENT, OPPOSITION TO AMENDED MOTION TO COMPEL DISCOVERY AND OPPOSITION MOTION TO SUSPEND PROCEEDINGS; IN THE ALTERNATE, PETITIONER EDGE GAMES RESPONSE TO REGISTRANT'S BRIEF IN REPLY WHICH RAISED NEW ISSUES.

INTRODUCTION:

OPENING COMMENT: Registrant's Motions to Compel and for Judgment would only have even a remote chance of having merit if the parties had agreed production to be by sending photocopies of documents, organized and labeled, to the other party, but this has not been agreed between the parties, rather, Registrant has yet to propose a location to view and copy produced documents. Hence both Motions are, on their face, entirely without merit, since all other grounds are clearly also meritless.

REGISTRANT'S "REPLY BRIEF" IS IN FACT EFFECTIVELY AN AMENDED MOTION WHICH PETITIONER SHOULD HAVE A RIGHT TO OPPOSE AND RESPOND TO:

Since Registrant's document filed December 21, 2015 (titled "Reply Brief") contains several new issues, allegations, accusations, arguments and which moves for the Board to make new rulings not requested in its original Motion dated November 17, 2015, Petitioner believes it has the right to treat the document Registrant filed as an Amended Motion, and believes that it is right and proper that the Board also treat it as such. Accordingly, since new allegations, accusations, arguments, grounds for motion and specific new requests of the Board are detailed in this new filing,<sup>1</sup> in equity, and in the interest of justice being served, it is fair and proper that Petitioner be permitted a right of response. This Response should thus please be given full and fair consideration by the Board, and Petitioner trusts that it is. In the alternate, if the Board is not minded to view Registrant's December 21<sup>st</sup> filing as an Amended Motion, then at the least the Board should

<sup>1</sup> For example, Petitioner notes that in Registrant's "Footnote 11" on page 10 of its so-called 'Reply Brief,' Registrant makes new requests of the Board that it rule in certain ways requiring Edge Games to take actions that Registrant did not specifically request in its original Motion; this thus stands as an amendment to motion.

please exercise its discretion and consider this Response given that Registrant raises so many new issues, arguments and accusations not present in its original Motion, and not purely responsive to Petitioner's Opposition to Motion filed December 7, 2015. Most important, the Board please needs to consider this document in order to appreciate that Petitioner has been compliant with discovery at all times since the Board's last order, and has produced all documents requested of it that it is able to produce.

Below, throughout this document, is further justification for considering Registrant's December 21<sup>st</sup> filing as an Amended Motion is given, and Petitioner thus respectfully requests that the Board fully consider this document so as to appreciate Petitioner's position on this issue and thus grant Petitioner the right of this Response. Petitioner will address the issues, new arguments, and new requests of the Board, raised by Registrant in the order that Registrant dealt with them in its December 21, 2015 filing.

This new filing by Registrant once again includes entirely new accusations and expressions of dissatisfaction with the form, format and content of the discovery that Petitioner has produced and served as a matter of courtesy on Registrant. Yet Registrant did not communicate with Petitioner at all regarding its dissatisfaction (and does not claim to have made any attempt), instead Registrant waited over a month from when it received Petitioner's voluminous and comprehensive courtesy 852 page bundle of documentary evidence (on or about November 18, 2015) until December 21, 2015 to mention its dissatisfaction for the first time, and did so not by communicating with Petitioner, but instead in the form of this effective December 21, 2015 Amended Motion. It should surely be a basic requirement of parties that they at least try to work out any issue with the opposing party before filing a Motion to Compel the other party. We trust therefore that the Board will not permit this behavior by Registrant and will encourage Registrant going forward to at least first make a reasonable attempt to discuss any discovery issues with Petitioner before filing a Motion to Compel or before effectively amending an existing Motion.

- I. Edge Games' Has Not Refused or Failed to Produce Any Information or Documents Relevant to Razer's Defense That Edge Games Has in its Possession Which it is Permitted To Produce; All Such Documents Have Been Produced, All Such Information Has Been Provided.

Here Registrant Razer presents entirely new grounds for a Motion to Compel Discovery, grounds not argued in its original November 17, 2015 Motion, grounds that are based on documentary evidence served on Registrant which Registrant alleges it did not receive until after it had filed its original Motion to Compel. Accordingly, Registrant's document stands as an Amendment to its original Motion (and thus Petitioner has a right to Oppose and Respond to this Amendment).

Here, too, Registrant raises a number of new issues and makes several new arguments to support an Amended Motion to Compel production of documents; namely, registrant opines that Petitioner had not

adequately organize or label its courtesy produced documents to correspond to the categories in Razer's document requests. Registrant also complains that it is not clear whether the documents were produced as they are kept in the usual course of business as required by Section 406.04(b). Accordingly, Registrant believed it had "no choice but to include as an exhibit all 852 pages of documents produced by Edge Games." Petitioner trusts the Board notes here that Registrant made no attempt whatsoever to contact Petitioner and ask for any further clarity as to organization and labeling, or confirmation of compliance with 406.04(b). If Registrant had bothered to communicate with Petitioner on or about November 18, 2015 when it received the 852 pages of documents, then Registrant would likely have received all the further courtesy clarity, organization and affirmation it sought within 24-48 hours -- thus obviating any necessity to ask the Board to compel such action by Petitioner. But instead Registrant waited over a month until December 21, 2015 to first mention its dissatisfaction with the 852 pages of courtesy produced<sup>2</sup> documents, doing so only as part of this new effective Amended Motion to Compel.

In fact, as the Board can see from the 852 pages of Petitioner's courtesy document production Registrant saw fit to file with the Board, Registrant did organize its courtesy copies: the documents pertaining to the key trademark licenses (filed as trade secret/confidential) were grouped together as were the documents proving licensee Velocity's sales revenues and marketing expenditure, as were the documents relating to Registrant's sales revenues, as were Registrant's historic use of the "EDGE" mark in U.S. commerce, and so forth. It was thus fairly easy for Registrant to appreciate which part of the 852 page courtesy bundle related to which document request, or at least should have been easy with only a modicum of effort. One might note, less effort than it took to file this Amended Motion to Compel based in part on an alleged lack of organization of the produced documents.

Attached as Exhibit 1 hereto is a copies of Registrant's First Set of Requests for Document Production and First Set of Interrogatories, including further responses to each request with Bates stamped page numbers in the 852 document bundle now referenced where appropriate. These Further Additionally Amended Document and Interrogatory Request Responses also make clear where Petitioner is not able to produce any requested document or provide any given requested information, thus showing clearly that Petitioner has indeed produced all documents and information in its possession that have been requested and which Petitioner is able to produce without a court order.

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<sup>2</sup> Petitioner says "courtesy produced" since per í 406.04(b) the documents are to be produced for viewing and made available for copying, and Registrant has made no attempt to either view the documents in Pasadena, CA, or to suggest any alternate location. Thus any documents produced by photocopying and mailing (as happened) are purely courtesy copies, not production as required of Petitioner per the TTAB Rules.

IA. Petitioner Edge Games Has Produced All Documents in its Possession That it is Permitted and Able to Produce, Including All Licenses and Assignment Agreements.

Petitioner Edge Games repeats again, that it has produced all documents that it has in its possession requested by Registrant, that it has a right to produce. Thus if a document was not produced this is because at the time of production the document in question, following a reasonable search, was not in Petitioner's possession. At the time of serving the 852 pages of document production, the only license Petitioner had in its possession that it could locate to produce was the Velocity License. A key part of that license was produced (the document that affirms the license exists: page 005 of the 852 page bundle, part of the Confidential/Trade Secret documents), and the other license document was not produced since it contains a clause stating a court order is required (see the Confidential exhibit to Petitioner's last filing proving this is the case). All other license documents could not be located nor could any assignment document, since Petitioner had not necessarily retained copies.<sup>3</sup> However, since serving the 852 page bundle of November 17, 2015, Petitioner has now been able to locate a copy of its Agreement with Future Publishing which contains a license clause within it. While not strictly speaking a "license document," and thus strictly speaking not what Registrant requested to be produced, in good faith Petitioner produces a courtesy copy of said document along with the associated "side agreement" letter (attached as Exhibit 2) and Bate Stamped in sequence starting at page number 853. This document is Confidential and Trade Secret and has thus been filed and served on Registrant accordingly and identified as such.

As to Assignment Agreements requested by Registrant, Petitioner did not have a copy in its possession any document relating to assignment at the time of producing the 852 pages of documents. Petitioner has now located the assignment document from Edge Interactive to Edge Games (attached hereto as Exhibit 3, Bate stamped, and now served on Registrant) which also memorializes the assignment from Softek to Edge Interactive in 1990. Petitioner has not retained a copy of any other assignment document (other than the Future Publishing document in Exhibit 2 that also contains an assignment clause) although Petitioner continues to search for such documents and will produce them if located; however, frankly, Petitioner cannot

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<sup>3</sup> NOTE ON RELEVANCY OF LICENSES/ASSIGNMENTS: While the Board ruled that Petitioner may not object to production of a document based on its relevancy to these proceedings or scope, Petitioner believes that the fact it cannot produce copies of licenses or assignments that it is not relying on in these proceedings, and thus which have no obvious relevance to these proceedings, should not lead to any sanction of Petitioner nor does it make sense for the Board to order production of documents Petitioner does not possess. Petitioner has made clear that first and foremost it is relying on its trademark license with Velocity Micro, and to a lesser extent on its trademark license with Future Publishing. Petitioner is not relying on any other trademark license it may have executed in the past 30 or more years, and thus the fact it cannot produce any of these should not be a point of any moment or reasonable concern. Registrant has, after all, provided no justification as to why it would need to view such licensees or assignments which would not be relevant to these proceedings, even if Petitioner could produce them.

see any possible relevance of such missing assignment documents to these proceedings since no such document is being relied on by Petitioner or has any clear probative or determinative value to Registrant.

In short, despite Registrant quoting the numerous times Petitioner has assured it has produced all requested documents as support for an argument that Petitioner has not been responsive, on the contrary, it is the case that Petitioner has produced all documents in its possession (that it is legally permitted to produce) which have been requested by Registrant and which Registrant has a right to view.

## II. Edge Games has not Mislead the Board; Petitioner is not Required by í 406.04(b) to Produce Documents to Registrant in the Form of Organized and Labeled Photocopies

Registrant writes as if the Board Rules require Registrant to produce documents in discovery in the form of photocopied pages, all organized and labeled, which is not true. Further, it is central to Registrant's grounds for Summary Judgment that production should be done in this manner, and in a piecemeal fashion with photocopies of documents being sent to Registrant as and when they are located and made ready for dispatch by Petitioner. But this is not what the Board Rules indicate. TMBP í 406.04(b) (2014) states: "The place of production is governed by 37 CFR í 2.120(d)(2). A party is only obliged to make documents and materials available for inspection and copying, where the documents are stored, and as they are kept in the ordinary course of business, or as organized and labeled to correspond to the requests." While í 406.04(b) goes on to say that parties often agree between themselves to copy requested documents and forward them to the other party "at the requesting party's expense," (ibid), in this case the parties have not agreed to produce documents in this manner. Certainly, Registrant has not requested that the documents be produced in this manner, nor has Registrant offered to pay for such copying and mailing which it is required to do per TBMP. Moreover, the Board Rule states "or organized and labeled to correspond to requests" (our emphasis) -- that is, it is entirely acceptable that documents be produced either where kept in the ordinary course of business or labeled and organized. Thus Petitioner's willingness to produce the documents as (and where) they are in the usual course of business, and as stored, fully meets the Board Rules; Petitioner was never required to send photocopies which were labeled and organized in accord with Registrant's requests. That is a convenient fiction invented by Registrant in order to justify its meritless Motion for Summary Judgment and its meritless Motion to Compel.

Rather, what the Board Rules call for, as states in í 406.04(b), is that Petitioner make the documents available for view and copying at the location they are usually stored (i.e. in Pasadena California) or at another location mutually agreed upon by the parties. And that the documents be either as kept in the ordinary course of business or labeled and organized, again at the location in Pasadena where the documents are made available for view and copying by Registrant. There is no rule requiring Petitioner to make the

documents available for view and copying at Registrant's offices, or that requires Petitioner to send photocopies, labeled and organized.

II.A Documents Were to be Produced at Location of Copeland Deposition After November 27, 2015 as the Location for Viewing and Copying per í 406.04(b)

Since the parties had not mutually agreed to produce documents in the form of photocopies served on each other, and since Registrant had made no attempt whatsoever to arrange to view and copy Petitioner's documents at Petitioner's usual place of business (Pasadena, California) or any attempt to discuss a mutually agreeable alternate location, Petitioner quite reasonably assumed that Registrant would find the location planned for the Copeland Deposition to be an acceptable location for Registrant to view and copy the documents. Since Registrant did not offer to pay for photocopied documents to be sent to it (nor even suggest Petitioner should send photocopies), and since it had made no attempt to arrange to attend the Pasadena location, and since it made no sense for Petitioner to attend Registrant's location of record (a Post Office Box in Minneapolis, MN?), it made good sense that the one location that both parties would be present at would be that selected for the Copeland deposition at which Registrant could view and make copies of all Petitioner's produced documents.<sup>4</sup>

The time and place of the Copeland deposition was agreed to be at a location in Virginia, an arrangement that Mr. Barritt agreed to on behalf of Registrant. It was also agreed that this deposition was to take place after November 27, 2015 when Mr. Barritt had returned from his trip and once again had availability<sup>5</sup>. Thus it was in a real sense agreed between the parties that the location at which Petitioner's was to produce documents responsive to Registrant requests, and made them available for view and copying was to be in Virginia after November 27, 2015,<sup>6</sup> since this was the only location that met the requirements of í 406.04(b) at which both parties had agreed to be present. Mr. Barritt may not have expressly agreed to this arrangement, but Mr. Barritt completely failed to communicate how he wished to arrange to view and copy Petitioner's documents, at what location, and thus this was a reasonable conclusion for Petitioner to come to that the viewing should take place where both parties were arranged to be present at the same time.

In the event, the Copeland deposition was canceled in November because Petitioner was able to gain a detailed declaration from Mr. Copeland that deals with all the issues of interest to Registrant and Petitioner regarding the existence and validity of the Velocity Micro license, and proof of the tens of millions of

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<sup>4</sup> The Board's 9/25/15 ruling, while requiring Petitioner to respond to discovery requests without objection on merit grounds, did not order that Petitioner photocopy and serve any produced documents on Registrant by mail. Absent such a Board order, Petitioner was right to assume that production would take the form of viewing and copying at its location in Pasadena unless otherwise agreed by the parties or ordered by the Board.

<sup>5</sup> Mr. Barritt openly admits he had no availability to attend any location away from his office in the period Nov 16-27.

<sup>6</sup> See correspondence between Mr. Barritt and Edge Games' attorney exhibited by both parties in regard to this Motion.

dollars of sales of "EDGE" product proving Registrant has no likelihood of prevailing in this action. Accordingly, as a courtesy, since the parties were no longer going to be at the same location in Virginia in late November or December for Registrant to view and copy Petitioner's produced documents, Petitioner copied all 852 pages of documents then in its possession and served them on Registrant via mail on November 17, 2015 (indicating in an email that morning that service had taken place). To be clear, Petitioner was not required to send these photocopies to Registrant since production by photocopy had not been agreed nor had Registrant offered to pay for same (as it would be required to do). Despite Petitioner serving these 852 pages on Registrant, it still remained Registrant's obligation to either view the documents at their usual location (Pasadena) or agree a mutually acceptable location for the viewing at which location Petitioner would then organize the produced documents and label them by reference to Registrant's requests. That is, there was no requirement that Petitioner organize or label the courtesy 852 photocopied documents since the parties had not agreed to photocopy and mailing production and thus Petitioner had every right to reserve such organization and labeling for the physical viewing required by § 406.04(b) (see Exhibit 4 for Petitioner's letter to Registrant).

Registrant deliberately misleads the Board when it states (page 6 of its Reply Brief/A mended Motion), "There was no subsequent communication from Edge Games regarding the production of any documents, from Velocity Micro or others, prior to the filing of Razer's Motion for Judgment on November 17, 2015." While this is technically true, it is immensely misleading of Registrant to suggest this lack of communication gave Registrant any grounds at all to believe production was not about to occur, not least since the onus was on Registrant to select a location to view. It was clear from the correspondence between the attorneys that Edge Games had experienced a delay in gaining the documents from Velocity, but it was also clear that the moment they were obtained then Edge Games would be producing them. Thus to state, as Registrant does, that it did not believe any production was going to occur as of November 17, 2015, was to deliberately mislead the Board. If Registrant was under any misunderstanding that that viewing and making available of documents for copying was to take place at the Copeland Deposition in Virginia, then Registrant should have inquired since it certainly had not either sought or gained an agreement for documents to be photocopied and mailed to Registrant (as Registrant now conveniently tries to mislead the Board was the case).

Also on page 6 of its 'Reply Brief,' Registrant states that Mr. Barritt was only unavailable from November 16-27 to attend a deposition, and states that he was not unavailable to view documents. This makes no sense at all, and Petitioner can rightly be forgiven for believing Mr. Barritt was saying he could not attend the location in Virginia in this period November 16-27 either to attend the deposition or to view documents. It makes no obvious sense that he now states he could attend in Virginia to view documents but



could not attend at the exact same place and the exact same time to participate in the planned deposition. Again, there was no agreement between the parties that documents would be photocopied and served on Registrant, so it is disingenuous of Registrant to repeatedly stated that in this time period Registrant's counsel was "available to receive discovery responses." He was supposed to be waiting to view them at a location, not receive them via mail.

Once again Registrant tries to make much of what Petitioner did or did not state in its October 19, 2015 Amended Responses to Discovery Requests, with covering emails, whereas those responses became moot when Petitioner filed Further Amended Responses on December 7, 2015 which Registrant conveniently overlooks. All clarification was given as to which documents had been produced, and which were being designated as Trade Secret, and all available documents were properly served on Registrant (with the sole exception of the documents covered by the court order requirement clause).

## II.B Characterization of 2008 and 2010 Federal Court Rulings was Accurate

Registrant alleges for the first time in this new filing that Petitioner mischaracterized the findings and rulings in the Velocity Micro and Electronic Arts cases (and this is another reason this filing is an Amended Motion, not merely a Reply Brief as titled since it contains new allegations and new grounds for motion). On the contrary, Petitioner's characterization of the outcomes of these two cases was entirely accurate.<sup>7</sup> In regard to the 2010 Electronic Arts Final Order, this was based on the underlying inter-parties Stipulation, which is in Exhibit 11 of Petitioner's December 7, 2015 Opposition to Motion. What the part of the Stipulation states which Registrant chose not to quote, is (at paragraph 23) "Neither this Stipulation nor the Settlement, nor any act performed or executed pursuant to or in furtherance of the Stipulation or the Settlement,<sup>8</sup> is intended as or shall constitute a concession or an admission of, or evidence of, any fault or wrongdoing by any party." Note, this paragraph went beyond the earlier "Whereas" statement quoted by Registrant that refers to neither party admitting to wrongdoing. Instead, paragraph 23 completely rescinds any finding (implied or explicit) made in the Court's Opinion on the preliminary injunction, making clear that there is to be considered no evidence of any wrongdoing, not merely no admission of any wrongdoing. Indeed, this was a key term of the settlement -- that it be clear that all the suspicions voiced by the court in its

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<sup>7</sup> Petitioner also notes that per TMBP 414(10) Petitioner is not obliged to produce any documents from any court case, and is only obliged to name the parties and state the case numbers, etc. All of this Petitioner has done, yet Registrant still insists it is entitled to receive actual documents from these cases, which it is not. The documents Registrant seeks are presumably available on the public record, if Registrant wishes to have copies of them.

<sup>8</sup> Which therefore includes the actual Stipulated Final Judgment that the judge signed, since this was in furtherance of the Stipulation and Settlement,

decision on the preliminary injunction be noted to be not found to be true. This was the purpose of paragraph 23 of the Stipulation.

As to the Velocity case's Final Order in 2008, that order clearly states that the ruling is to be deemed on the merits, which means the court is to be deemed to have found in Edge Games' favor on all points including that Edge had not committed fraud and including Edge's legitimate and genuine continuous use and ownership of trademark rights in the mark EDGE. Petitioner therefore does not understand Registrant's comment here, and they seem self-serving. As to the omission that Marvel was a licensee of Petitioner, this was an oversight: for avoidance of doubt, Marvel was a licensee of Edge by virtue of being the publisher of the EDGE comic series, under license from Edge Games. Petitioner does not have a copy of that license to produce (the Response has been amended accordingly, attached hereto). As to Registrant's other belligerent allegations that Petitioner made statements that have "no credibility" (that EA committed fraud on the court, that Rev Dr Langdell was not permitted to have legal representation at the London Trial, that Dr Langdell did not manufacture any evidence, etc), this will all be shown to be true at trial in this matter. Again, at this time Petitioner is under no obligation to produce documents from these cases, only to name the parties and action numbers. If it is pertinent to do so, then Petitioner can and will prove at trial in this action that these are all entirely true statements.

### III. Conclusion

Petitioner affirmed well before the Motion was filed that it will produce all documents requested by Registrant (other than the documents prevented by court order conditions), and per í 406.04(b) these documents would be produced for view and copying the moment Registrant indicates where and when this is to take place by mutual agreement with Petitioner, if not in Pasadena. In the meantime, purely as a courtesy (and not because Petitioner has agreed to production via photocopied mailed documents), Petitioner has in fact already produced in photocopy form, mailed to Registrant, all documents requested that are in Petitioner's possession and which it is able to produce. With the addition of documents just located by Petitioner (Exhibited hereto and now served as a courtesy on Registrant), there is no document that has not been produced, all of which then currently available were produced on the same morning that Registrant filed the original un-amended motion, and which it is clear that Registrant should have expected at that time, despite its disingenuous claims now that it was not expecting any production. Again, it is absurd for Registrant to have stated it did not believe any documents were going to be produced since per í 406.04(b) the onus was on Registrant to attend Petitioner's place of work to view and copy said documents, not to sit and wait for them to be sent via mail.

Since all documents currently available (and not requiring a court order before production) have been produced, and all that were available at November 17 were served that day (even though they were only courtesy copies), the Motion to Compel discovery was entirely moot at the time it was filed since Registrant was obliged to attend an agreed location to view and copy. It should thus be denied.

While if Registrant had issues with the courtesy copy of the 852 bundle of documents it should have contacted Petitioner with said concerns rather than filing this effective Amended Motion to Compel, in any event as a further courtesy Petitioner has addressed all those issues in the attached -- which, again, is a courtesy since such photocopies with organization and labels is not required under 406.04(b). Where documents are not in possession, then Petitioner has indicated so per TMBP 406.04(c), and of course Petitioner undertakes to make future production should new documents responsive to discovery requests come to light on further research which is all Petitioner is required to do. As to Registrant's further requests for rulings to compel by the Board in its Footnote 11 of its "Reply Brief," Petitioner notes it has fully addressed these points too, making this new (effective) motion for Board order moot.

As to the Motion for Judgment, this was based on the false statement that Petitioner was not complying with discovery, when this is clearly not true. Thus, in equity and fairness, for good reason, the Judgment Motion should be denied, too, as should Registrant's request to toll time for discovery. Time should be deemed to have continued to run for discovery purposes while these motions were being considered, since for time to be tolled during this period would be extremely unfair to Petitioner and should not be permitted to be a mechanism for Registrant to gain an extension of time to serve discovery responses. The Board should not reward this time wasting by Registrant by extending Discovery. Registrant did not make reasonable attempts to resolve discovery issues before filing the Motion to Compel, and its Motion for Judgment was meritless given Petitioner was actively clearly participating in discovery and has had at all times every intention of producing all requested documents (permitted to be produced) if Registrant wished to attend Petitioner's location to view and copy, or propose another location per 406.04(b). There were no other valid grounds since the unclean hands argument was clearly without merit, as were all other stated grounds.

Respectfully submitted:

By:   
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CEO, Edge Games, Inc.,  
Petitioner in pro se  
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Phone: (626) 449 4334  
Fax: (626) 844 4334

Date: December 28, 2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDGE GAMES, INC.	}	
	}	
Petitioner,	}	Cancellation No. 92058543
	}	
v.	}	Mark: EDGE
	}	
RAZER (ASIA-PACIFIC) PTE LTD	}	Registration No. 4,394,393
	}	
Registrant	}	
	}	
-----	}	

CERTIFICATE OF SERVICE

It is hereby certified that on December 28, 2015 a true copy of the foregoing PETITIONER'S EDGE GAMES, INC.'S OPPOSITION TO REGISTRANT RAZER (ASIA-PACIFIC) PTE LTD'S AMENDED MOTION FOR JUDGMENT, OPPOSITION TO AMENDED MOTION TO COMPEL DISCOVERY AND OPPOSITION TO MOTION TO SUSPEND PROCEEDINGS; IN THE ALTERNATE, PETITIONER EDGE GAMES RESPONSE TO REGISTRANT'S BRIEF IN REPLY WHICH RAISED NEW ISSUES (WITH EX HIBITS) was deposited in the U.S. mail, certified, postage prepaid, addressed to:

Keith A. Barritt Esq  
Fish & Richardson P.C.  
P.O. Box 1022  
Minneapolis, MN 55440-1022

Signature: \_\_\_/s/ Cheri Langdell\_\_\_\_\_

# EXHIBIT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDGE GAMES, INC.	}	
	}	
Petitioner,	}	Cancellation No. 92058543
	}	
v.	}	Mark: EDGE
	}	
RAZER (ASIA-PACIFIC) PTE LTD	}	Registration No. 4,394,393
	}	
Registrant	}	
	}	
-----	}	

PETITIONER'S FURTHER ADDITIONALLY AMENDED RESPONSES TO  
APPLICANT'S FIRST SET OF REQUESTS FOR DOCUMENTS  
AND ELECTRONICALLY STORED INFORMATION

Pursuant to Federal Rule of Civil Procedure 33 and Trademark Rules of Practice í 2.120, Petitioner Edge Games, Inc. ("Petitioner") by its undersigned pro per representative hereby responds to Registrant's First Set of Interrogatories. New amendments are in [blue](#).

RESERVATION OF RIGHTS

Petitioner's responses are based solely on information currently available to Petitioner based upon reasonable investigation. Investigation and discovery are ongoing. Petitioner reserves all rights to supplement, revise and/or amend these responses should additional information become available through the discovery process or other means. Petitioner also reserves the right to produce or use any information or documents that are discovered after service of these responses in support of or in opposition to any motion, in depositions, or in hearings. In responding to Registrant's requests, Petitioner does not waive any objection on the grounds of privilege, competency, relevance, materiality, authenticity, or admissibility of the information contained in these responses.

## GENERAL OBJECTIONS

1. Petitioner objects to the definitions, instructions, and requests to the extent that they seek information or documents protected by the attorney-client privilege or by the work product doctrine, prepared in connection with settlement discussions, prepared in anticipation of litigation or for trial, or subject to any other applicable privilege, protection, immunity or restriction from discovery. Inadvertent disclosure of any privileged or protected information or documents in response to these requests shall not be deemed a waiver of the applicable privilege or protection, or any other basis for objecting to discovery, or of the right of Petitioner to object to the use, and see the return, of any such inadvertently disclosed information.

2. Petitioner objects to the requests to the extent that they seek information subject to confidentiality restrictions of a third party.

3. Petitioner objects to the requests to the extent that they are duplicative, so long as this objection is deemed to be not merit-based (otherwise it is withdrawn).

4. A statement by Petitioner of its willingness to produce responsive documents that are not protected from discovery does not mean that such documents exist.

5. Petitioner incorporates by reference the General Objections set forth above into each of its responses, whether or not repeated therein, as well as any specific stated objections. Petitioner may repeat a general objection for emphasis or some other reason, but the failure to repeat any general objection does not waive any general objection to the requests. Petitioner does not waive its right to amend its objections. Petitioner's willingness to provide the requested responses or information is not an admission that such responses or information are relevant or admissible.

6. Petitioner reserves the right to include additional objections to any future discovery requests.

#### SPECIFIC OBJECTIONS AND RESPONSES TO DOCUMENT REQUESTS

Subject to the foregoing General Objections and reservation of rights, as well as the specific objections set forth below, Petitioner responds as follows:

#### PETITIONER'S RESPONSES TO REGISTRANT'S FIRST REQUEST FOR DOCUMENTS AND ELECTRONICALLY STORED INFORMATION

##### Request No. 1

For each product or service offered by Petitioner (defined above as including its predecessors in interest, and all of its subsidiaries and affiliated companies, and the officers, directors, employees, agents and representatives thereof) or any of Petitioner's alleged trademark licensees bearing Petitioner's alleged EDGE mark or any variant thereof, produce documents sufficient to substantiate for each product or service:

- (a) The mark used;
- (b) The date of first use of the mark in each state of the United States;
- (c) Whether use of each mark for each product or service in each state identified above has continued every year thereafter;
- (d) The classes of consumers to whom each product or service is or was sold or distributed;
- (e) The retail establishments and other channels of trade where each product or service is or was sold or distributed;
- (f) The amount spent each year for advertising;
- (g) The amount of sales each year in volume and dollar amount; and



(h) The manner in which the mark EDGE or any variant has been used for every month since use of the mark began, e.g. by affixing it to the product, packaging, advertising, or use in promotional materials, and the name and address of the person(s) or organization(s) which printed any such labels, packaging, advertising, or other materials.

OBJECTION: See the general objections above. In addition, this request does not limit scope to the facts or evidence that might be considered relevant to these proceedings (Petitioner and/or its predecessors in rights have been in business in the United States since at least about 1982 but the question does not even limit scope to just the United States). However, the Board has ruled that Petitioner may not object on such grounds of merit, and thus Petitioner merely makes this observation for the record as to scope and burden, but does not object on the basis of same.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [In the meantime prior to a document viewing and copying session being arranged, on November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents. Referencing that courtesy bundle, Petitioner further responds as follows:](#)

(a) The mark used;

[\(1\) For Petitioner's own goods the marks are EDGE, THE EDGE, GAMER'S EDGE and other EDGE formative marks and documents sufficient to substantiate are throughout the courtesy bundle, including but not limited to pages 551-709; \(2\) For Velocity Micro use, the marks are EDGE and GAMER'S EDGE and documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266, 268-550; 710-755 \(3\) For Future Publishing's use the mark is EDGE and documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 756-852; \(4\) for all other products and services Petitioner is unable at this time to produce documents to support the mark used, but is continuing to search for such documents and reserves the right to produce them when or if they are located.](#)

(b) The date of first use of the mark in each state of the United States;

[\(1\) For Petitioner's own documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 551-709; \(2\) For Velocity Micro use, documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266, 268-550; 710-755; \(3\) For Future Publishing's use documents sufficient to substantiate are in the courtesy bundle at various points,](#)

including but not limited to pages 756-852; (4) for all other products and services Petitioner is unable at this time to produce documents to support, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

(c) Whether use of each mark for each product or service in each state

identified above has continued every year thereafter;

(1) For Petitioner's own goods documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 551-709; (2) For Velocity Micro use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266, 268-550; 710-755; (3) For Future Publishing's use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 756-852; (4) for all other products and services Petitioner is unable at this time to produce documents to support, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

(d) The classes of consumers to whom each product or service is or was sold

or distributed;

(1) For Petitioner's own documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 551-709; (2) For Velocity Micro use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266, 268-550; 710-755; (3) For Future Publishing's use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 756-852; (4) for all other products and services Petitioner is unable at this time to produce documents to support, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

(e) The retail establishments and other channels of trade where each product or

service is or was sold or distributed;

(1) For Petitioner's own documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 551-709; (2) For Velocity Micro use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266, 268-550; 710-755; (3) For Future Publishing's documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 756-852; (4) for all other products and services Petitioner is unable at this time to produce documents to support, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

(f) The amount spent each year for advertising;

(1) For Petitioner's own goods documents sufficient to substantiate are not in the courtesy bundle but will be produced if located after additional search; (2) For Velocity Micro use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266; (3) for all other products and services Petitioner is unable at this time to produce documents to support the spending for advertising, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

(g) The amount of sales each year in volume and dollar amount; and

(1) For Petitioner's own goods documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 551-602; (2) For Velocity Micro use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266; (3) for all other products and services Petitioner is unable at this time to produce documents to support the sales volume by year, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

(h) The manner in which the mark EDGE or any variant has been used for every month since use of the mark began, e.g. by affixing it to the product, packaging, advertising, or use in promotional materials, and the name and address of the person(s) or organization(s) which printed any such labels, packaging, advertising, or other materials.

(1) For Petitioner's own documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 551-709; (2) For Velocity Micro use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 001-266, 268-550; 710-755; (3) For Future Publishing's use documents sufficient to substantiate are in the courtesy bundle at various points, including but not limited to pages 756-852; (4) for all other products and services Petitioner is unable at this time to produce documents to support, but is continuing to search for such documents and reserves the right to produce them when or if they are located.

Request No. 2

For each product or service identified in answer to [interrogatory \(sic\)](#) No. 1, [identify](#):

(a) The name and address of any of Petitioner's trademark licensees who sold or distributed the product or service;

(b) The name and address of the actual producer of the product or provider of the service;

(c) The person employed by Petitioner or any licensee who is most knowledgeable about the marketing and sales in the United States of such product or service.

OBJECTION: Petitioner repeats its objection for No. 1.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. *The foregoing being noted, Petitioner further comments that these requests to "identify" are not document production requests.*

Request No. 3

For each product or service offered by Petitioner or any of Petitioner's alleged trademark licensees bearing Petitioner's alleged EDGE mark or any variant thereof, identified in answer to Interrogatory No. 1 *above* (sic), produce documents sufficient to:

- (a) Identify the name and address of each media source (including but not limited to newspapers, trade journals, electronic publications, radio or TV stations) used for advertising such product or service.
- (b) Identify the primary person at each such media source who had rendered services to Petitioner or any licensee in connection with the promotion of such product or service; and
- (c) State the dates such advertising occurred.

OBJECTION: See objection to No 1 and No 2 above.

ANSWER: Petitioner will produce *for viewing and copying at a mutually agreed location* such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. *In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, but at this time Petitioner has no documents to produce in response to this request. Petitioner is continuing its document search and reserves its right to produce documents at a later date if and when any are located.*

Petitioner also notes that the request refers to "Interrogatory 1 above" when there is no such Interrogatory above.

Request No. 4

For each licensee identified in response to Interrogatory No. 2 or Document Request No. 2 above, produce:

- (a) All documents regarding the license, including documents sufficient to identify the name and address of the licensee, the marks involved, the products and services involved, and the date such license began and ended;
- (b) All documents regarding the quality control procedures for each product or service sold under each mark covered by each license that are or have ever been in place;
- (c) All documents regarding the enforcement of any quality control procedures in place under any license;
- (d) Documents sufficient to substantiate the annual expenses incurred by Petitioner for enforcing the quality control requirements in the license; and
- (e) Documents sufficient to substantiate the royalty fee or other licensing payment received by Petitioner each year pursuant to any license or any other benefit received by Petitioner under the license.

OBJECTION: See objections to No.1 and No. 2 above. In addition, the Velocity Micro license contains a clause stating its contents cannot be revealed except by order of a court.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the objections above. [In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, and further documents have also been served.](#)

Referencing the documents now produced as a courtesy bundle, Petitioner responds additionally as follows:

- (a) All documents regarding the license, including documents sufficient to identify the name and address of the licensee, the marks involved, the products and services involved, and the date such license began and ended;

In regard to the Velocity Micro license, documents sufficient are at various points in the courtesy bundle, but at least at pages 001-005; In regard to the Future Publishing license, , documents sufficient are at various points in the courtesy bundle, but at least at pages 853-872; In regard to other licenses, Petitioner has no documents to produce at this time but continues to search and reserves the right to produce newly located documents as and when they are found.

- (b) All documents regarding the quality control procedures for each product or service sold under each mark covered by each license that are or have ever been in place;

In regard to the Velocity Micro license, documents sufficient are at various points in the courtesy bundle, but at least at pages 001-005; In regard to the Future Publishing license, , documents sufficient are at various points in the courtesy bundle, but at least at pages 853-873; In regard to other licenses, Petitioner has no documents to produce at this time but continues to search and reserves the right to produce newly located documents as and when they are found.

- (c) All documents regarding the enforcement of any quality control procedures in place under any license;

In regard to the Velocity Micro license, documents sufficient are at various points in the courtesy bundle, but at least at pages 001-005; In regard to the Future Publishing license, , documents sufficient are at various points in the courtesy bundle, but at least at pages 853-873; In regard to other licenses, Petitioner has no documents to produce at this time but continues to search and reserves the right to produce newly located documents as and when they are found.

- (d) Documents sufficient to substantiate the annual expenses incurred by Petitioner for enforcing the quality control requirements in the license; and

Petitioner currently has no documents to produce in response to this request but continues to search and reserves the right to produce such newly located documents as and when they are found.

- (e) Documents sufficient to substantiate the royalty fee or other licensing payment received by Petitioner each year pursuant to any license or any other benefit received by Petitioner under the license.

Petitioner currently has no documents to produce in response to this request, or is restricted from production without a court order, but continues to search and reserves the right to produce such newly located documents as and when they are found and where they are not under any such restriction on production.

#### Request No. 5

For each licensee identified in response to Interrogatory No. 2 or Document Request No, 2 above, produce:

- (a) All documents regarding Petitioner's creation, maintenance, and enforcement of the license; and
- (b) All documents regarding any situation where a licensee's product or service was found not to comply with Petitioner's quality control standards.

OBJECTION: See objections to No.1 and No. 2 above. In addition, the Velocity Micro license contains a clause stating its contents cannot be revealed except by order of a court.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the objections above. In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, and other pages also produced, and in reference to same now further responds as follows:

- (a) All documents regarding Petitioner's creation, maintenance, and enforcement of the license; and

In regard to the Velocity Micro license, documents sufficient are at various points in the courtesy bundle, but at least at pages 001-005; In regard to the Future Publishing license, , documents sufficient are at various points in the courtesy bundle, but at least at pages 853-873; In regard to other licenses, Petitioner has no documents to produce at this time but continues to search and reserves the right to produce newly located documents as and when they are found.

(b) All documents regarding any situation where a licensee's product or service was found not to comply with Petitioner's quality control standards.

No such documents exist as far as Petitioner since no such instance has occurred.

Request No. 6

For each licensee identified in response to Interrogatory No. 2 or Document Request No. 2 above, produce documents sufficient to identify by name and address the primary person of the licensee with whom Petitioner communicated for the purpose of enforcing the quality control provisions in the license, the position(s) such individual has held with the licensee, and the dates such individual held the position(s) with the licensee.

OBJECTION: See objections to No.1 and No. 2 above.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, and pages numbered 001-005 give details for the Velocity license, and 853-873 give details for the Future license. No other documents exist to produce at this time.

Request No. 7

Produce all any (sic) correspondence with any licensee regarding the notice that Petitioner's U.S. trademark registration nos. 2,219,837; 2,251,584; 3,105,816; 3,559,342; and



3,381,826 had been ordered cancelled, as ordered by the court in Exhibit 1 hereto, including all subsequent correspondence with each licensee regarding the status of the license.

OBJECTION: See Petitioner's General Objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [The aforementioned being said, Petitioner does not have in its possession any documents responsive to this request at this time. Petitioner's search is ongoing and Petitioner reserves the right to supplement production at some future date based on the outcome of said ongoing search.](#)

Request No. 8

For all marks that were assigned to Petitioner, produce:

- (a) All documents regarding the assignment, including documents sufficient to identify the name and address of the assignor, the marks involved, the products and services involved, and the date such assignment became effective;
- (d) [\(sic - there is no b or c\)](#) Documents sufficient to identify the name and address of Petitioner's primary contact person at the assignor regarding the assignment;
- (e) All documents regarding the purchase price or other consideration given to the assignor for the assignment of the mark;
- (f) All documents regarding the circumstances of the assignment, including whether the assignment was made to resolve any disputes regarding use of the mark; and
- (g) All documents substantiating the steps taken to ensure that the entire goodwill of the assignor's business as it relates to the mark was assigned.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, and pages numbered 874-875 are documents responsive to all the above requests in regard to assignments between Edge Interactive and Edge Games; pages 853-873 are documents responsive to all the above requests in regard to assignments between Future Publishing and Petitioner; there are no other documents that Petitioner can produce at this time responsive to the above, but will continue searching and reserves the right to produce new documents when or if they are located.](#)

Request No. 9

If Petitioner has requested, received or has knowledge of any legal opinions regarding the right of anyone (including Petitioner) to use the mark EDGE or any variant thereof, produce each such opinion.

OBJECTION: See general objections above. This also does not appear to be a request for document production but rather perhaps an Interrogatory. But, that said, Petitioner is aware per the Board's September 25, 2015 Order that it cannot object on such merit-based grounds no matter how valid such grounds might be.

ANSWER: If petitioner correctly understands what the request was meant to be, then the response is no documents that is not covered by attorney-client privilege or work product doctrine, or similar valid and acceptable basis for objection.

Request No. 10

Produce all documents regarding all past and current users known by Petitioner other than Petitioner and Registrant, of any marks incorporating the term EDGE in the United States.

OBJECTION: See general objections above and objections to No. 1.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [The aforesaid being noted, Petitioner does not have any such documents other than those produced relating to Petitioner's licensees, already produced and detailed in responses above.](#)

Request No. 11

Produce all documents regarding all instances Petitioner is aware of in which a person has been confused as to the source of Petitioner's or Registrant's products or services bearing any mark incorporating the term EDGE, or as to any affiliation or connection between Petitioner and Registrant.

OBJECTION: See general objections above and objections to No. 1.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [The aforementioned being said, Petitioner does not have in its possession any documents responsive to this request at this time. Petitioner's search is ongoing and Petitioner reserves the right to supplement production at some future date based on the outcome of said ongoing search.](#)

Request No. 12

Produce all documents regarding any lawsuit, trademark opposition or cancellation proceeding, or other dispute with a third party involving Petitioner (defined above to include its predecessors in interest, and all of its subsidiaries and affiliated companies, and the officers, directors, employees, agents and representatives thereof) involving a claim or action relating to the use of, application for, or registration of the mark EDGE or any variant, including but not limited to:

- (a) All documents pertaining to any such claim or action;
- (b) Documents sufficient to identify the name and address of each such third party, the case docket number and the filing date and tribunal, if any, and the nature of the claim or action, including the trademarks and products/services involved;
- (c) All documents regarding the outcome any such claim or action, including any negotiations, settlement agreements, licenses, and assignments

(d) All documents regarding any sanctions or findings of fact against Petitioner or any of its predecessors, subsidiaries, affiliates, or directors, or officers, directors, employees, agents and representatives thereof related to the falsification of any documents or submission of any false statements of fact or other falsehoods to any tribunal; and

(e) Documents sufficient to identify the name(s), address(es), and telephone number(s) of all counsel representing any adverse party in such claim or action.

OBJECTION: See general objections above and objections to No. 1. Petitioner further notes that this request is not limited to either the United States territory or to claims or actions or tribunals involving Petitioner. Thus, as stated, this request, as worded, asks Petitioner to produce documents in respect to all claims, actions or tribunals worldwide, for every country in the world, pertaining in any way to the mark EDGE. While this is clearly far outside the scope of these proceedings as worded, Petitioner will respectfully note that all such documents that are in the public domain around the world can be obtained directly by Registrant, and it is not reasonable to request Petitioner obtain and produce such public documents. Petitioner thus responds in good faith as reasonably as it can. Petitioner notes that it is not permitted to make any merit-based objections, and thus does not do so, and merely states the foregoing for the record.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [For forgoing being noted, Petitioner further comments that T BMP 414 \(10\) states that Petitioner is not obliged to produce such documents other than any settlement agreements \(which insofar as Petitioner has such to produce then they have been produced and identified elsewhere herein\).](#)

Request No. 13

For each of Petitioner's marks incorporating EDGE, produce all documents regarding any trademark search or investigation with respect to the selection, adoption, or the filing of an application for registration for such mark.

OBJECTION: See objection to No. 1 above and General Objections.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. The aforementioned being said, Petitioner does not have in its possession any documents responsive to this request at this time. Petitioner's search is ongoing and Petitioner reserves the right to supplement production at some future date based on the outcome of said ongoing search.

Request No. 14

For each such search or investigation identified in response to Interrogatory 13 and Document Request No. 13 above, produce all correspondence concerning such search or investigation.

OBJECTION: See objection to No. 13 above.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. The aforementioned being said, Petitioner does not have in its possession any documents responsive to this request at this time. Petitioner's search is ongoing and Petitioner reserves the right to supplement production at some future date based on the outcome of said ongoing search.

Request No. 15

All documents that substantiate Petitioner's claim in paragraph 30 of the Petition to Cancel that Registrant's EDGE mark has caused dilution.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce for viewing and copying at a mutually agreed location such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, and others, and pages 001-875 inclusive all contain data and information that may be relied on to one extent or another by Petitioner.

Request No. 16.

All documents that substantiate Petitioner's claim in paragraph 31 of the Petition to Cancel that Petitioner's alleged EDGE mark is famous.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [In the meantime prior to a document viewing and copying session being arranged, November 17, 2015 Petitioner served on Registrant an 852 page courtesy bundle of documents, and further courtesy documents and pages numbered 001-875 inclusive contain data and information that may be relied on to one extent or another by Petitioner.](#)

Request No. 17

All documents on which Petitioner will rely to support the contention in the Petition to Cancel that there is a likelihood of confusion between Registrant's EDGE mark and any of Petitioner's alleged EDGE marks or dilution of any of Petitioner's alleged EDGE marks.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [In the meantime prior to a document viewing and copying session being arranged, Petitioner has served on Registrant an 852 page courtesy bundle of documents, and other courtesy documents and pages numbered 001-875 inclusive contain data and information that may be relied on to one extent or another by Petitioner.](#)

Request No. 18

Documents sufficient to identify the officers of Petitioner and dates such offices were held.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [The aforementioned being said, Petitioner does not have in its possession at this time any document that can be produced responsive to this request. Petitioner's search continues and Petitioner reserves its right to supplement its production based on the outcome of said ongoing search efforts.](#)

Request No. 19

Documents sufficient to identify Petitioner's predecessors-in-interest and the dates when there was an associated change of ownership of each of Petitioner's marks incorporating the term EDGE.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [The aforementioned being noted, Petitioner has produced such document\(s\) as it currently has in its possession as a result of searches, and has served same on Registrant Bate stamped 874-875.](#)

Request No. 20

Documents sufficient to identify Petitioner's subsidiaries and affiliated companies, and the officers thereof.

OBJECTION: See general objections above.

ANSWER: Petitioner will produce [for viewing and copying at a mutually agreed location](#) such documents in its possession, custody or control, which are responsive to this request and as it is reasonably able to do and which are not covered by valid non-merit-based objections in the general objections above. [The aforementioned being said, Petitioner confirms that it does not have in its possession at this time any documents that can be produced which identify same; Petitioner's search continues and Petitioner reserves its right to supplement its production based on the outcome of said ongoing search efforts.](#)

Respectfully submitted,

By: /s/ Tim Langdell\_\_\_\_\_

CEO, Petitioner Edge Games Inc  
530 South Lake Avenue, 171  
Pasadena, CA 91101  
Phone: 626 449 4334  
Fax: 626 844 4334  
E mail: [tim@edgegames.com](mailto:tim@edgegames.com)

Date: October 5, 2015  
(Further Amended 12/12/15 & [12/28/15](#))

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDGE GAMES, INC.	}	
	}	
Petitioner,	}	Cancellation No. 92058543
	}	
v.	}	Mark: EDGE
	}	
RAZER (ASIA-PACIFIC) PTE LTD	}	Registration No. 4,394,393
	}	
Registrant	}	
	}	
-----	}	

CERTIFICATE OF SERVICE

It is hereby certified that on December 28, 2015 a true copy of the foregoing PETITIONER'S FURTHER ADDITIONALLY AMENDED RESPONSES TO REGISTRANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS was deposited in the U.S. mail, certified, postage prepaid, addressed to:

Keith A. Barritt Esq  
Fish & Richardson P.C.  
P.O. Box 1022  
Minneapolis, MN 55440-1022

Signature:   /s/ Cheri Langdell



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDGE GAMES, INC.	}	
	}	
Petitioner,	}	Cancellation No. 92058543
	}	
v.	}	Mark: EDGE
	}	
RAZER (ASIA-PACIFIC) PTE LTD	}	Registration No. 4,394,393
	}	
Registrant	}	
	}	
-----	}	

PETITIONER'S FURTHER ADDITIONALLY AMENDED  
RESPONSES TO APPLICANT'S FIRST SET OF INTERROGATORIES

Pursuant to Federal Rule of Civil Procedure 33 and Trademark Rules of Practice í 2.120, Petitioner Edge Games, Inc. ("Petitioner") by its undersigned pro per representative hereby responds to Registrant's First Set of Interrogatories (new additions in blue text).

RESERVATION OF RIGHTS

Petitioner's responses are based solely on information currently available to Petitioner based upon reasonable investigation. Investigation and discovery are ongoing. Petitioner reserves all rights to supplement, revise and/or amend these responses should additional information become available through the discovery process or other means. Petitioner also reserves the right to produce or use any information or documents that are discovered after service of these responses in support of or in opposition to any motion, in depositions, or in hearings. In responding to Registrant's requests, Petitioner does not waive any objection on the grounds of privilege,

competency, relevance, materiality, authenticity, or admissibility of the information contained in these responses.

## GENERAL OBJECTIONS

1. Petitioner objects to the definitions, instructions, and requests to the extent that they seek information or documents protected by the attorney-client privilege or by the work product doctrine, prepared in connection with settlement discussions, prepared in anticipation of litigation or for trial, or subject to any other applicable privilege, protection, immunity or restriction from discovery. Inadvertent disclosure of any privileged or protected information or documents in response to these requests shall not be deemed a waiver of the applicable privilege or protection, or any other basis for objecting to discovery, or of the right of Petitioner to object to the use, and see the return, of any such inadvertently disclosed information.

2. Petitioner objects to the requests to the extent that they seek information subject to confidentiality restrictions of a third party.

3. Petitioner objects to the requests to the extent that they are duplicative (if this objection is viewed as non-merit based, otherwise this objection is withdrawn).

4. A statement by Petitioner of its willingness to produce responsive documents that are not protected from discovery does not mean that such documents exist.

5. Petitioner incorporates by reference the General Objections set forth above into each of its responses, whether or not repeated therein, as well as any specific stated objections. Petitioner may repeat a general objection for emphasis or some other reason, but the failure to repeat any general objection does not waive any general objection to the requests. Petitioner does not waive its right to amend its objections. Petitioner's willingness to provide the requested

responses or information is not an admission that such responses or information are relevant or admissible.

6. Petitioner reserves the right to include additional objections to any future discovery requests.

### SPECIFIC OBJECTIONS AND RESPONSES

Subject to the foregoing General Objections and reservation of rights, as well as the specific objections set forth below, Petitioner responds as follows:

#### PETITIONER'S RESPONSES TO REGISTRANT'S FIRST REQUEST SET OF INTERROGATORIES

##### Interrogatory No. 1

State each product or service offered by Petitioner (defined above as including its predecessors in interest, and all of its subsidiaries and affiliated companies, and the officers, directors, employees, agents and representatives thereof) or any of Petitioner's alleged trademark licensees bearing Petitioner's alleged EDGE mark or any variant thereof, and for each product or service state:

- (a) The mark used;
- (b) The date of first use of the mark in each state of the United States;
- (c) Whether use of each mark for each product or service in each state identified above has continued every year thereafter, and if not state the periods of time during which the mark was not used in connection with each product or service;
- (d) The classes of consumers to whom each product or service is or was sold or distributed;

- (e) The retail establishments and other channels of trade where each product or service is or was sold or distributed;
- (f) The amount spent each year on advertising;
- (g) The amount of sales each year in volume and dollar amount; and
- (h) The manner in which the mark EDGE or any variant has been used, e.g. by affixing it to the product, packaging, advertising, or use in promotional materials, and the name and address of the person(s) or organization(s) which printed any such labels, packaging, advertising, or other materials.

OBJECTION: See general objections as pertinent

ANSWER:

- (a) The mark used;

"EDGE" in the form EDGE (game software, game hardware), THE EDGE (game software, game hardware), EDGE PC (game hardware), EDGE GAMING PC (game hardware), EDGE GAMERS (gamer software and online services for gaming), EDGE OF EXTINCTION (game software), CUTTING EDGE (game software), EDGE 3D (game software, game hardware), EDGE OF TWILIGHT (game software) and GAMER'S EDGE (game software, game hardware). See attached list of which goods and services have been used with which EDGE mark.

- (b) The date of first use of the mark in each state of the United States;

On or about June 1, 1984 for EDGE and THE EDGE for all computers games and game hardware; since 1995 for game PCs; since at least 2000 for EDGE for computer game magazines online and in electronic format; since or about 2010 for EDGE OF EXTINCTION; since or about 1988 for CUTTING EDGE for games; since or about 1996 for EDGE 3D for game software and hardware; since or about 2010 for EDGE OF TWILIGHT; since or about 1988 for GAMER'S EDGE for game software and since or about 1998 for game computers (see response for (c) below, too).

- (c) Whether use of each mark for each product or service in each state identified above has continued every year thereafter, and if not state the periods of time during which the mark was not used in connection with each product or service;

EDGE and THE EDGE on all game software products, continuous; EDGE for computer game magazines in electronic or online format continuous since or about 2000; GAMER'S EDGE continuous from or about 1988 for software, and from or about 1998 for hardware. Still awaiting details from licensee(s) as to whether GAMER'S EDGE was not used for any given period since 1998 for hardware. EDGE PC and EDGE GAMING PC from or about 1995. EDGE GAMERS believed to be since or about 2006, and continuous since that time. EDGE OF EXTINCTION believed to be from or about March 2000. CUTTING EDGE believed to be from or about April 1995 to April 2013 for printed comics; continuous to current day for game software related use. EDGE 3D believed to be from or about 1995 to 1998. EDGE OF TWILIGHT from or about 2009 and believed to be until the current day.

(d) The classes of consumers to whom each product or service is or was sold or distributed;

In all cases, for all goods and services, general consumers within the United States who usually buy computer or video game software and hardware via any of the channels used by EDGE or its licensees, Affiliates or Predecessors in Rights. Other consumers are probable (e.g. education, corporate purchases and other non regular US consumer purchases), but Petitioner is awaiting data from licensees to be able to answer more fully.

(e) The retail establishments and other channels of trade where each product or service is or was sold or distributed;

For all goods and services: via Internet ("on line" direct to consumer and via resellers such as Amazon.com and NewEgg.com) for all goods since or about 1995, via smaller retainers and mass market distributors since or about 1984, and via major retail outlets such as Toys R Us, Woolworth, Best Buy, and Frys, for all computer game and computer hardware goods since 1984. For electronically published magazines, via online distribution (websites) and via other standard electronic distribution methods through hand held mobile devices, cell phones and tablet computers.

(f) The amount spent each year on advertising;

For the individual computer games listed in the attachment, Edge either no longer has such data for the period 1984 to-date, or has not recorded such data separate from overall operating costs; as an operating standard, though, Edge has always spent at least 10% of the revenue of each individual game on marketing and promoting that game; For computer games and game hardware, and other products, all sold by licensees, Edge is still awaiting data from licensee(s) with the exception of the data provided by Velocity Micro which was produced on November 17, 2015 and marked as trade secret; As to marketing of the electronically published EDGE magazine by Future, Edge is informed that Future does not track such data for the U.S. market.

(g) The amount of sales each year in volume and dollar amount;

For the individual computer games listed in the attachment, E dge either no longer has such data for the period 1984 to around 2003, or has not recorded such data separate from overall operating costs, but data where available for the period since 2003 was produced on November 17, 2015 and marked as trade secret; For computer games and game hardware, and other products, all sold by licensees, E dge is still awaiting data from licensee(s) with the exception of the data provided by V elocity Micro which was produced on November 17, 2015 and marked as trade secret; As to sales revenue from the electronically published E DGE magazine by Future, E dge is informed that Future does not track such data for the U.S. market.

(h) T he manner in which the mark E DGE or any variant has been used, e.g.

by affixing it to the product, packaging, advertising, or use in promotional

materials, and the name and address of the person(s) or organization(s)

which printed any such labels, packaging, advertising, or other materials.

For all products sold by E dge or any of its licensees: affixed to products, on product packaging, used on website to promote products, used on advertising materials to promote products. See produced evidence from V elocity Micro for specific examples of this and for specific examples of how E dge Games has done this.

## Interrogatory No. 2

For each product or service identified in answer to interrogatory No. 1, identify:

(a) T he name and address of any of Petitioner's trademark licensees who sold or distributed the product or service;

(b) T he name and address of the actual producer of the product or provider of the service;

(c) T he person employed by Petitioner or any licensee who is most knowledgeable about the marketing and sales in the United States of such product or service.

OBJECTION: See general objects as pertinent.

ANSWER:

(a) The name and address of any of Petitioner's trademark licensees who sold or distributed the product or service;

In the United States: For the EDGE game computers listed in the attached, Velocity Micro Inc., 835 Grove Road, Midlothian, VA 23114; For electronically published game magazines, Future Publishing Ltd., Beauford Court, 30 Monmouth Street, Bath, Avon, BA1 2BW, United Kingdom; For the EDGE 3D hardware product, Diamond Multimedia, 20740 Plummer St., Chatsworth CA 91311; For the EDGE OF EXTINCTION game, Cybernet Systems, 727 Airport Blvd, Ann Arbor Michigan, 48108; FOR THE EDGE OF TWILIGHT GAME, FuzzyEyes Studio Pty Ltd, 3/53 Brandl St., Eight Mile Plains, Q4113, Australia; For the EDGE game controller, Datel Design and Development Inc, 33 North Garden Avenue, Suite 900, Clearwater FL 33755; For EDGE for comic books and related goods (for clarity, the license with Steven Grant and Gil Kane, which includes Marvel Comics as a licensee by contractual association, is not being named here since there is some question whether Grant/Kane/Marvel actually sold or distributed any comics under the license and the request asks for licensees who actually "sold or distributed." This is still being researched. For this reason, Petitioner does not give further detail here or below and believes by not doing so it is being properly responsive under the circumstances).

(b) The name and address of the actual producer of the product or provider of the service;

In the United States: Edge Games Inc, 530 South Lake Avenue, 171, Pasadena, CA 91101; Velocity Micro Inc., 835 Grove Road, Midlothian, VA 23114; Future Publishing Ltd., Beauford Court, 30 Monmouth Street, Bath, Avon, BA1 2BW, United Kingdom; Diamond Multimedia, 20740 Plummer St., Chatsworth CA 91311; Cybernet Systems, 727 Airport Blvd, Ann Arbor Michigan, 48108; FuzzyEyes Studio Pty Ltd, 3/53 Brandl St., Eight Mile Plains, Q4113, Australia; Datel Design and Development Inc, 33 North Garden Avenue, Suite 900, Clearwater FL 33755; Edg gamers, 555 E. Pacific Coast Highway, #218, Long Beach, CA 90806 (all as believed to be the case to the best of knowledge and belief).

(c) The person employed by Petitioner or any licensee who is most knowledgeable about the marketing and sales in the United States of such product or service.

Dr Tim Langdell, CEO of Petitioner; Randall Copeland of Velocity Micro Inc.; Wei-Yao Lu of FuzzyEyes; Ken Tarolla of Datel Design; John Coates and Mark Charles Zerbe of Edg gamers. As to others, contact believed to be the senior executive or designated officer at any given time.

Interrogatory No. 3

For each product or service identified in answer to Interrogatory No. 1:

- (a) Identify the name and address of each media source (including but not limited to newspapers, trade journals, electronic publications, radio or TV stations) used for advertising such product or service.
- (b) Identify the primary person at each such media source who had rendered services to Petitioner or any licensee in connection with the promotion of such product or service; and
- (c) State the dates such advertising occurred.

OBJECTION: See general objections as pertinent

ANSWER:

- (a) Identify the name and address of each media source (including but not limited to newspapers, trade journals, electronic publications, radio or TV stations) used for advertising such product or service.

For E dge's own products advertising was done since 1984 in various computer game magazines and other publications, but record of precisely which and when has not been recorded or filed. As to products and services by licensee(s) E dge is still awaiting feedback from licensees to be able to answer this, other than such information provided in the produced V elocity micro documents.

- (b) Identify the primary person at each such media source who had rendered services to Petitioner or any licensee in connection with the promotion of such product or service;

For E dge's own products advertising was done since 1984 record of precisely who has not been recorded or filed. As to for products and services by licensee(s) E dge is still awaiting feedback from licensees to be able to answer this, other than such information provided in the produced V elocity micro documents.  
and

- (c) State the dates such advertising occurred.

For E dge's own products, E dge has not retained this information but it should be noted that since or about 2005 promotion of computer games has transitioned from traditional



media such as magazines to word of mouth promotion by giving away free versions of a game which Edge has done via such channels as the cell phone companies (AT & T, Sprint, Verizon) and via the iTunes store run by Apple for iOS devices. As to licensees: still awaiting data from licensee(s) to be able to answer this, other than such information provided in the produced Velocity micro documents.

Interrogatory No. 4

For each licensee identified in response to Interrogatory No. 2 above, state:

- (a) The name and address of the licensee;
- (b) The effective date such license began and ended;
- (c) The marks covered by the license;
- (d) The products and services covered by the license.
- (e) The quality control procedures, in detail, for each product or service sold under each mark covered by the license that are or have ever been in place and the dates such controls were in place;
- (f) The annual expenses incurred by Petitioner for enforcing the quality control requirements in the license; and
- (g) The royalty fee or other licensing payment received by Petitioner each year pursuant to the license or any other benefit received by Petitioner under the license.

OBJECTION: See general objections as pertinent. The Velocity Micro license is covered by a condition that its contents may only be revealed to a third party once a court has ordered it done.

ANSWER:

- (a) The name and address of the licensee;

For the United States market: (1) Velocity Micro Inc., 835 Grove Road, Midlothian, VA 23114; (1) Future Publishing Ltd., Beauford Court, 30 Monmouth Street, Bath, Avon, BA1 2BW, United Kingdom; (3) Diamond Multimedia, 20740 Plummer St., Chatsworth CA 91311; (4) Cybernet Systems, 727 Airport Blvd, Ann Arbor Michigan, 48108; (5)

FuzzyEyes Studio Pty L td, 3/53 Brandl St., Eight Mile Plains, Q4113, Australia; (6) Datel Design and Development Inc, 33 North Garden Avenue, Suite 900, Clearwater FL 33755

(b) The effective date such license began and ended;

(1) began 1998 and has not ended; (2) began 1993 and has not ended; (3) Believed to have began 1995 and believed to have ended circa 1998; (4) Began circa 2000 and believed to be still on-going; (5) Began in or about 2009 and believed to be still on-going; (6) Began in or about J anuary 29, 2009 until or about J anuary 29, 2012.

(c) The marks covered by the license;

(1) EDGE and GAMER'S EDGE; (2) EDGE; (3) EDGE in the form EDGE 3D; (4) EDGE in the form EDGE OF EXTINCTION; (5) EDGE in the form EDGE OF TWILIGHT; (6) THE EDGE.

(d) The products and services covered by the license.

(1) Game hardware such as game computers; (2) Computer and video game publications and magazines published electronically; (3) EDGE 3D PC game hardware such as a plug in circuit board enabling a PC to play SEGA Saturn games; (4) Computer game; (5) Computer game; (6) Game hardware such as a controller for Nintendo consoles.

(e) The quality control procedures, in detail, for each product or service sold

under each mark covered by the license that are or have ever been in place

and the dates such controls were in place;

(1) Edge has at all times during the license had the adequate ability to monitor the quality of the licensed goods or services, by a variety of methods such as receiving samples on a regular basis from licensee, inspecting samples of product in stores, reading consumer reviews of said products, and periodically making test purchases of the products sold under the license; (2) Edge has at all times been able to monitor the quality of the electronically published magazines by viewing them online and doing so periodically to check quality, and where appropriate by having subscriptions to same, along with receiving hard copies of the printed magazine by subscription on a regular monthly basis since or about 1996 to date; (3) Edge has at all times during the license had the adequate ability to monitor the quality of the licensed goods or services, by a variety of methods such as receiving samples on a regular basis from licensee, inspecting samples of product in stores, reading consumer reviews of said products, and periodically making test purchases of the products sold under the license; (4) Edge has at all times during the license had the adequate ability to monitor the quality of the licensed goods or services, by a variety of methods such as receiving samples on a regular basis from licensee, inspecting samples of product in stores, reading consumer reviews of said products, and periodically making test purchases of the products sold under the license; (5) Edge has at all times during the license had the adequate ability to monitor the quality of the licensed goods or services, by a variety of methods such as

receiving samples on a regular basis from licensee, inspecting samples of product in stores, reading consumer reviews of said products, and periodically making test purchases of the products sold under the license; (6) E dge has at all times during the license had the adequate ability to monitor the quality of the licensed goods or services, by a variety of methods such as receiving samples on a regular basis from licensee, inspecting samples of product in stores, reading consumer reviews of said products, and periodically making test purchases of the products sold under the license.

- (f) The annual expenses incurred by Petitioner for enforcing the quality control requirements in the license;

Petitioner has not tracked this expenditure separate from its general operating costs. However, such costs have been minimal since enforcing quality control requirements involved minimal cost beyond occasional test purchases of licensed goods.

and

- (g) The royalty fee or other licensing payment received by Petitioner each year pursuant to the license or any other benefit received by Petitioner under the license.

For all licensees the licensor paid Petitioner a lump sum in cash or kind. (1) Contents of the license are subject to being revealed only by court order which Registrant is welcome to apply for and upon such court order being made Petitioner will provide this information; (2) \$250,000 was paid to acquire certain print media trademark rights and to prepay in perpetuity for the ongoing license right to publish the electronic versions of the magazine; (3) E dge does not have the data on this to hand at this time, but the sum is recalled to be around \$25,000 to purchased the license for an initial 5 year period and right to renew thereafter; (4), (5), (6), details not retained by E dge

#### Interrogatory No. 5

For each licensee identified in response to Interrogatory No. 2 above, describe in detail:

- (a) How Petitioner creates, maintains, and enforces the quality control provisions for each product or service covered by the license; and
- (b) Any situation where a licensee's product or service was found not to comply with Petitioner's quality control standards.

OBJECTION: See general objections as pertinent. The Velocity Micro license is covered by a condition that its contents may only be revealed to a third party once a court has ordered it done.

ANSWER:

- (a) How Petitioner creates, maintains, and enforces the quality control provisions for each product or service covered by the license;

See 4(e) above

and

- (b) Any situation where a licensee's product or service was found not to comply with Petitioner's quality control standards.

None ever found.

Interrogatory No. 6

For each licensee identified in response to Interrogatory No. 2 above, identify by name and address the primary person of the licensee with whom Petitioner communicated for the purpose of enforcing the quality control provisions in the license, providing the position(s) such individual has held with the licensee and the dates such individual held the position(s) with the licensee.

OBJECTION: See general objections as pertinent.

ANSWER: Same person in each case as listed as the main contact for each license. See above. In each case it was the CEO, President or the designated contact.

Interrogatory No. 7

Describe any correspondence with any licensee regarding the notice that Petitioner's U.S. trademark registration nos. 2,219,837; 2,251,584; 3,105,816; 3,559,342; and 3,381,826 had been ordered cancelled, as ordered by the court in Exhibit 1 hereto, including all subsequent correspondence with each licensee regarding the status of the license.

OBJECTION: See general objections as pertinent.

ANSWER: Notices were sent to licensees in accord with the Court's Order; there was no subsequent correspondence with any licensee regarding the status of the license(s). Petitioner notes that the court order referenced was one that Petitioner itself requested the court to make, not a court order arising from a court considering the facts, evidence or merits of Petitioner's trademark registrations, right to own same, or similar.

Interrogatory No. 8

List all of Petitioner's marks incorporating the term EDGE that were assigned at any time to Petitioner or any of its predecessor, affiliates, or subsidiaries, and state for each mark:

- (a) The effective date of the assignment;
- (b) The products or services associated with the assigned mark;
- (c) The name and address of the assignor;
- (d) The name and address of Petitioner's primary contact person at the assignor regarding the assignment;
- (e) The purchase price or other consideration given to the assignor for the assignment of each mark;
- (f) The circumstances of the assignment, including whether the assignment was made to resolve any disputes regarding use of the mark; and
- (g) The steps taken to ensure that the entire goodwill of the assignor's business as it relates to the mark was assigned.

OBJECTION: See general objections as pertinent. The Velocity Micro license is covered by a condition that its contents may only be revealed to a third party once a court has ordered it done.

ANSWER:

- (a) The effective date of the assignment;

(1) EDGE GAMERS on or about January 13, 2009; (2) EDGE believed to be in or about 1996 and 2014; (3) CUTTING EDGE (Marvel Comics) in or about September 1995; (4) EDGE OF EXTINCTION on or about September 29, 2009.

(b) The products or services associated with the assigned mark;

(1) online gaming services; (2) game magazines published electronically; (3) comic books;  
(4) game software

(c) The name and address of the assignor;

(1) John Coates, Edg gamers, 555 E. Pacific Coast Highway, #218, Long Beach, CA 90806 (last known address); (2) Future Publishing Ltd Beauford Court, 30 Monmouth Street, Bath, Avon, BA1 2BW, United Kingdom; (3) Marvel Entertainment Group, Inc. CORPORATION DELAWARE 387 Park Avenue South New York NEW YORK 10016;  
(4) Cybernet Systems, 727 Airport Blvd, Ann Arbor Michigan, 48108.

(d) The name and address of Petitioner's primary contact person at the  
assignor regarding the assignment;

See responses above.

(e) The purchase price or other consideration given to the assignor for the  
assignment of each mark;

(2) Future Publishing paid a total of \$250,000 to purchase the assigned trademark rights and for one-time payment of the perpetual and irrevocable trademark license; (3) Petitioner does not have documents relating to this settlement at this time, but recalls that it paid Marvel a sum, believed to be \$5,000, for assignment of the rights in the 'EDGE' related marks. For all other assignments, good and valuable consideration was given, receipt of which was acknowledged at the time, but at this time Petitioner does not have record of the specific sum(s) or consideration(s), or said detail is subject to a court order being required before being revealed.

(f) The circumstances of the assignment, including whether the assignment  
was made to resolve any disputes regarding use of the mark;

In all instances, the assignment arose as part of an amicable settlement between the parties following a dispute over trademark rights which, in each case, resulted in the other party accepting Edge's priority of rights in the mark EDGE.

and

(g) The steps taken to ensure that the entire goodwill of the assignor's  
business as it relates to the mark was assigned.

In all instances, the entire goodwill was assigned and assured to be assigned by wording in the agreement between the parties that specified that it was being assigned.

Interrogatory No. 9

If Petitioner has requested, received or has knowledge of any legal opinions regarding the right of anyone (including Petitioner) to use the mark EDGE or any variant thereof, identify:

- (a) Each such opinion;
- (b) The person or persons requesting each such opinion; and
- (c) The person rendering each such opinion.

OBJECTION: See general objections. No legal opinions requested or received. Petitioner has researched trademark law extensively and has read many legal opinions that pertain to its trademark disputes in one way or another, but has not retained a record of same.

Interrogatory No. 10

List all past and current users known by Petitioner, other than Petitioner and Registrant, of any marks incorporating the term EDGE in the United States, including the owner of such mark and the goods and/or services associated with such use.

OBJECTION: See objection to No. 1. While Petitioner is not permitted to object on the basis of relevance, scope, or other merit-based grounds, Petitioner nonetheless wishes to note for the record that this request is exceptionally burdensome since as written it pertains to all uses of the EDGE mark for any products and services, not just those relating to these proceedings. Petitioner makes a reasonable effort to respond based on its knowledge or belief at the time of responding without undertaking any special research into same.

ANSWER: In addition to those users who assigned any EDGE mark to Petitioner (referenced above), Petitioner knows of: EDGE for shaving cream believed to be owned by Edgeware Personal Care Brands; EDGE for automobiles believed to be owned by Ford Motor Company.

Interrogatory No. 11

Describe all instances Petitioner is aware of in which a person has been confused as to the source of Petitioner's or Registrant's products or services bearing any mark incorporating the

term EDGE, or as to any affiliation or connection between Petitioner and Registrant. In your description:

- (a) State with particularity the nature of the confusion involved in each such instance;
- (b) Identify each person with knowledge of each instance of such confusion; and
- (c) Identify each document and/or oral communication concerning such confusion.

OBJECTION: See general objections

ANSWER:

- (a) State with particularity the nature of the confusion involved in each such instance;

Petitioner is still gathering data on this [but has nothing it can state at this time.](#)

- (b) Identify each person with knowledge of each instance of such confusion;

Petitioner is still gathering data on this [but has nothing it can state at this time.](#)

and

- (c) Identify each document and/or oral communication concerning such confusion.

Petitioner is still gathering data on this [but has nothing it can state at this time.](#)

Interrogatory No. 12

If Petitioner or any of its predecessors, affiliates, subsidiaries, or directors, or officers, or shareholders, representatives, or agents thereof, has ever been a party to a lawsuit or trademark



opposition or cancellation proceeding, or sent or received a cease and desist letter or otherwise communicated with a third party, involving a claim or action relating to the use of, application for, or registration of the mark EDGE or any variant thereof:

- (a) State the name and address of each such third party;
- (b) State the case docket number and filing date and identify the tribunal, if any;
- (c) Describe the nature of the claim or action, including the trademarks and products/services involved;
- (d) Describe the outcome of any such claim or action, including the details of any settlement agreement;
- (e) Identify all documents referring or relating to such litigation, proceeding, or dispute and ensuing negotiations, if any;
- (f) Identify all documents regarding any sanctions or findings of fact against Petitioner or any of its predecessors, subsidiaries, affiliates, or directors, or officers, directors, employees, agents and representatives thereof related to the falsification of any documents or submission of any false statements of fact or other falsehoods to any tribunal; and
- (g) The name(s), address(es), and telephone number(s) of all counsel representing any adverse party in such claim or action.

OBJECTION: Please see general objections.

ANSWER:

- (a) State the name and address of each such third party;

Petitioner believes: (1) New World Computing, Inc. CORPORATION CALIFORNIA 20301 Ventura Boulevard, Suite 200 Woodland Hills CALIFORNIA 91364; (2) Marvel Entertainment Group, Inc. CORPORATION DELAWARE 387 Park Avenue South New

Y ork NEW YORK 10016; (3) ELECTRONIC ARTS INC, 209 REDWOOD SHORES PARKWAY , REDWOOD CITY , CA 94065 (4) Kabushiki Kaisha Sony Computer Entertainment (a/t/a Sony Computer Entertainment Inc.) 2-6-21, Minami-aoyama, Minato-ku Tokyo 107-0062 Japan; (5) John Coates (Edg gamers-see above for address); (6) Velocity Micro, 7510 Whitepine Rd, North Chesterfield, VA 23237; (7) Mobigame, 85 boulevard Pasteur F-75015 PARIS FRANCE . [Petitioner further believes there have been other trademark actions that it or its predecessors have been involved in over the past 31 years, but does not have a record of such other actions at this time to be able to give details.](#)

(b) State the case docket number and filing date and identify the tribunal, if

any;

(1) Opposition No. 92021684; (2) Opposition No. 91104280; (3) Opposition No. 92051465 and Federal Court Case 10-CV-2614-WHA; (4) Opposition No. 91189164; (5) Opposition No. 77352656; (6) Opposition No. 92049162 and Federal Court Case 03:08CV 135-J RS; (7) Opposition No. 91212834

(c) Describe the nature of the claim or action, including the trademarks and products/services involved;

Trademark infringement and/or likelihood of confusion; see above for details of marks and products/services

(d) Describe the outcome of any such claim or action, including the details of any settlement agreement;

All settled or resolved amicably, most entirely in Petitioner's favor and one in the mutual favor of both parties; documents pertaining that are discoverable will be supplied insofar as there are no valid objections to such production; see general objections. [The aforesaid being noted, Petitioner further responds: \(1\) Petitioner cannot currently locate a copy of documents for this matter, which occurred in the early 1990s, but does recall it settled amicably with the other party abandoning its claim on the 'EDGE' related mark in question and no money being paid to Petitioner as part of any settlement; \(2\) Petitioner cannot currently locate a copy of documents for this matter, which occurred in the early 1990s, but does recall it settled amicably with the other party abandoning its claim on the 'EDGE' related mark in question and no money being paid to Petitioner as part of any settlement \(indeed, Petitioner believes that it paid Marvel Comics a sum, perhaps of or about \\$5,000, for the rights in the marks that were then assigned into Petitioner's name as part of the settlement\); \(3\) The parties settled with each side bearing their own costs and neither party paying a sum to the other. The settlement included an agreed stipulated judgment that the two parties instructed the court to issue, which was intended in key part to clarify that neither Petitioner nor its CEO, Dr Langdell, were to have been found guilty of any wrongdoing, and that purely as a commercial compromise Petitioner was agreeing to cancel a number of its U.S. trademark applications and registrations but that said](#)

cancellations were explicitly not to be deemed to be as a result of any fraud on the USPTO or from non-use/abandonment, but instead Petitioner's common law rights were expressly retained and affirmed and in no sense waived; (4) Petitioner does not have any related documents to hand, after reasonable search, but recalls this was an amicable settlement in which each party paid its own legal fees, neither party paid the other any sum in settlement, and in which SONY withdrew its claim to right to register the mark in question; (5) Petitioner does not have any related documents to hand, after reasonable search, but recalls this was an amicable settlement in which each party paid its own legal fees, neither party paid the other any sum in settlement, and in which the parties assigned the mark in question to Petitioner for good and valuable consideration; (6) the details of this settlement cannot be revealed except by court order as noted above, but the matter settled amicably with, as can be seen on the public record, Velocity withdrawing its trademark actions against Petitioner (Opposition No 91186738, Cancellation 92049162); (7) Ongoing action, no settlement.

- (e) Identify all documents referring or relating to such litigation, proceeding, or dispute and ensuing negotiations, if any;

See general objections; all discoverable documents will be produced that are not subject to valid objections. Petitioner adds: in accord with TMBP 414(10), Petitioner is not required to produce any document relating to a court case or tribunal case, or provide any other information, other than to name the parties and state the case number, the outcome and the decision (if published), which Petitioner has already done. In each instance where there was a settlement agreement of any kind, said settlement agreement has been produced in what has been served on Registrant to-date. If there is any settlement agreement not produced then it is because, despite reasonable efforts, Petitioner does not have said document to produce at this time.

- (f) Identify all documents regarding any sanctions or findings of fact against Petitioner or any of its predecessors, subsidiaries, affiliates, or directors, or officers, directors, employees, agents and representatives thereof related to the falsification of any documents or submission of any false statements of fact or other falsehoods to any tribunal;

To the best of Petitioner's belief, none in any U.S. action or tribunal. Petitioner also believes none in any overseas tribunal, but will produce any documents necessary which are not covered by the general objections and which may clarify Petitioner's response. Petitioner adds: in accord with TMBP 414(10), Petitioner is not required to produce any document relating to a court case or tribunal case, or give any other information, other than to name the parties and state the case number, state the outcome and the decision (if published), all of which it has already done.

and

- (g) The name(s), address(es), and telephone number(s) of all counsel representing any adverse party in such claim or action.

Petitioner has not retained record in its files, but this is all generally in the public record easily accessed by Registrant. [Petitioner further notes that per T BMP 414\(10\) this information is not discoverable by Registrant, and Petitioner is not obliged to provide it.](#)

Interrogatory No. 13,

For each of Petitioner's marks incorporating EDGE, state whether Petitioner conducted or caused anyone else to conduct any trademark search or investigation with respect to selection, adoption, or the filing of any application for registration of such mark.

OBJECTION: See general objections.

ANSWER: None conducted or caused to be conducted

Interrogatory No. 14

For each such search or investigation identified in response to Interrogatory No. 13, state:

- (a) The date on which it was made;
- (b) The name and address of the person who requested it; and
- (c) Whether any report or other communication or document was made concerning such search or investigation, and if so, set out verbatim the contents thereof or attach to the answer to this interrogatory a copy of each such report, communication or document.

OBJECTION: See objection to No. 13 above.

ANSWER: See answer to No 13 above

Interrogatory No. 15.

State the factual basis for Petitioner's claim in paragraph 30 of the Petition to Cancel that Registrant's EDGE mark has caused dilution.

OBJECTION: See general objections

ANSWER: Petitioner has a history of over 30 years of use of the mark EDGE in United States commerce, both for computer game software and for computer game hardware. No other entity has registered or legitimate claim to the mark EDGE for game such game related goods and services except under agreement with Petitioner or except where Petitioner is formally opposing or objecting to any use by such an entity using the mark other than under agreement with Petitioner. Petitioner has used its best efforts to police the U.S. market over the past 30 years to ensure a lack of dilution and a lack of likelihood of confusion in the minds of US consumers. This is not a comprehensive list of factual bases for the claim, and Petitioner reserves the right to add or amend same at any time as is reasonable giving this is the discovery phase, not the legal argument phase.

Interrogatory No. 16

State the factual basis for Petitioner's claim in paragraph 31 of the Petition to Cancel that Petitioner's alleged EDGE mark is famous.

OBJECTION: See general objections

ANSWER: See Petitioner's answer to No. 15 above.

Interrogatory No. 17

State all facts and identify all documents on which Petitioner will rely to support the contention in the Petition to Cancel that there is a likelihood of confusion between Registrant's EDGE mark and any of Petitioner's alleged EDGE marks or dilution of any of Petitioner's alleged EDGE marks.

OBJECTION: See general objections

ANSWER: See answer to No. 15 above.

Interrogatory No. 18

Identify the officers of Petitioner, specifying the dates such offices were held.

ANSWER: Dr Tim Langdell; held since formation of the corporation.

Interrogatory No. 19

Identify Petitioner's predecessors-in-interest, specifying the dates when there was an associated change of ownership of each of Petitioner's marks incorporating the term EDGE.

OBJECTION: See general objections

ANSWER: Softek International L td. (November 29, 1990); T he E dge Interactive Media, Inc. (February 20, 2008).

Interrogatory No. 20

Identify all of Petitioner's subsidiaries and affiliated companies, and the officers thereof.

OBJECTION: See general objections

ANSWER: T he E dge Interactive Media, Inc.; Dr T im L angdell

Interrogatory No. 21

As to each of the above interrogatories, identify:

- (a) T he person within Petitioner who has the greatest knowledge as to the information requested; and
- (b) A ll persons who participated in preparing each response.

OBJECTION: See general objections

ANSWER: (a) Dr T im L angdell; (b) Dr T im L angdell

Respectfully submitted,

By:     /s/ Tim Langdell    

CEO, Petitioner Edge Games Inc  
530 South Lake Avenue, 171  
Pasadena, CA 91101  
Phone: 626 449 4334  
Fax: 626 844 4334  
E mail: tim@edgegames.com

Date: October 5, 2015  
(further amended 12/5/15 & 12/28/15)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDGE GAMES, INC.	}	
	}	
Petitioner,	}	Cancellation No. 92058543
	}	
v.	}	Mark: EDGE
	}	
RAZER (ASIA-PACIFIC) PTE LTD	}	Registration No. 4,394,393
	}	
Registrant	}	
	}	
-----	}	

CERTIFICATE OF SERVICE

It is hereby certified that on December 28, 2015 a true copy of the foregoing PETITIONER'S FURTHER ADDITIONALLY AMENDED RESPONSES TO REGISTRANT'S FIRST SET OF INTERROGATORIES was deposited in the U.S. mail, certified, postage prepaid, addressed to:

Keith A. Barritt Esq  
Fish & Richardson P.C.  
P.O. Box 1022  
Minneapolis, MN 55440-1022

Signature:   /s/ Cheri Langdell

# EXHIBIT 2

(Confidential pages 853-873)



# EXHIBIT 3

(Confidential pages 874-875)

# EXHIBIT 4

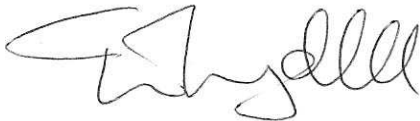
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Board requested of us, and we would ask that you please aim to show some common courtesy going forward as well as adhering to what the Board requested of us.

Finally, from reading your Motions and your so-called Reply Brief, you seem to be under the false impression that the parties agreed that production of documents is to be in the form of photocopied pages that are sent in an organized and labeled manner. However, the parties have not agreed to that format for production. Thus in the absence of any such agreement about production, the default format is that you either attend our location in California where the documents are usually stored in the usual course of business (and we make them available to you to view and copy) OR you make a proposal to us as to a mutually convenient location at which we can make the documents available for you to view and copy.

We had presumed that the location in Virginia where the Copeland deposition was to take place would be a mutually agreeable location for you to view and copy our document production. Only because the deposition was canceled, and because you had made no effort whatsoever to either attend at a location in California or propose any other location to view documents, we then sent you the 852 page bundle as a courtesy. But by sending you that bundle we were not agreeing to production being in the form of photocopied pages, organized and labeled. That is entirely your invention and not agreed between the parties. Accordingly, you did not have grounds for a Motion to Compel having made no attempt to view our documents, and you also therefore had no legitimate merit based grounds for a Judgment Motion either.

Kind regards,

A handwritten signature in black ink, appearing to read 'Tim Langdell', with a stylized, cursive script.

Dr Tim Langdell  
CEO, Petitioner in pro se